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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/661,268	09/13/2000	Andrew C. Gallagher	81312DMW	8312
1333	7590	03/24/2004	EXAMINER	
PATENT LEGAL STAFF EASTMAN KODAK COMPANY 343 STATE STREET ROCHESTER, NY 14650-2201			PATEL, KANJIBHAI B	
			ART UNIT	PAPER NUMBER
			2625	

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/661,268

Applicant(s)

GALLAGHER ET AL.

Examiner

Kanji Patel

Art Unit

2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Response to Amendment***

1. In response to applicant's amendment filed on January 09, 2004 (Paper No. 7/a), all requested changes in the claims have been entered and made of record.

Applicant's arguments see pages 12-13, filed 1/9/04, with respect to the rejection(s) of claim(s) 1-6 and 26-27 under 102(e) has been fully considered and are persuasive. Therefore, the rejection under 102(e) has been withdrawn.

In response to applicant's amendment, the rejection of claims 1-31 under 112, second paragraph has been withdrawn. However, upon further consideration, a new ground of rejections under 112, second paragraph and 101 have been made.

***Claim Objections***

2. **Claims 1, 7-8, 23-26 and 28**, are objected to because of the following informalities:

**Claim 1**, step d), change "first value" to -- first signal value --.

**Claim 1**, step e), line 2, change "first value" to -- first signal value -- and "second value" to -- second signal value --.

Similar changes are required for **claims 7-8, 23-26 and 28**.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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**Claims 1-33** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Claim 1** recites the limitation of "near continuous function" in line 8, which renders the claim indefinite. It is unclear what is meant by near continuous function?. The specification on page 32, lines 19-20 does not clearly define the meaning of a near continuous function. Please explain.

**Claims 7-8, 23-26 and 28** are similarly analyzed and rejected.

**Claims 2-6, 9-22, 27 and 29-33** are also rejected for the same reasons as being dependent upon the rejected base claims.

***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 26-33** are directed to non-statutory subject matter because the terminology "**computer program product**" alone has no set definition.

***Other prior art cited***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dethardt (US 5,349,451) discloses a method and apparatus for processing color values.

Ginosar et al. (US 5,247,366) disclose a color wide dynamic range camera.

Pothier (US 4,969,043) discloses an image-convolution and enhancement apparatus.

Arai (US 6,445,831 b1) discloses an image processing method and apparatus.

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### Contact Information

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Kanji Patel** whose telephone number is (703) 305-4011. The examiner can normally be reached on Monday to Thursday from 8:00 a.m. to 6:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor **Mehta, Bhavesh** can be reached on (703) 308-5246.

The fax phone for this group is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **receptionist** whose telephone number is (703) 305-3800.



Kanji Patel  
Art Unit 2625  
MarchMarch 20, 2004